



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/691,352

10/22/2003

Keith K. Cargin JR.

47564USS02

6644

23446

7590

11/22/2006

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER

CHANG, YEAN HSI

ART UNIT

PAPER NUMBER

2835

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/691,352

Applicant(s)

CARGIN ET AL.

Examiner

Yean-Hsi Chang

Art Unit

2835

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

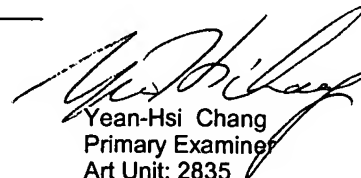
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 44-94.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Office action mailed 9/7/06.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: Response to arguments (see attached sheet).


Yean-Hsi Chang
Primary Examiner
Art Unit: 2835

Response to Arguments

Applicant's arguments filed 11/7/06 have been fully considered but they are not persuasive.

Regarding recessed pin sockets, the Applicants argue "the recessed pin sockets 28 of Kumar are not "within said interior space" as set forth in claim 44", "claim 44 recites in part "a device housing having a normal closed condition defining an interior space within the device housing", "the recessed pin sockets 28 are not "within said interior space" as set forth in claim 44".

As stated in the rejection of the Office action mailed 9/7/06, Kumar teaches ... a device housing (12) having a normal closed condition (fig. 1) defining an interior space within the device housing (fig. 3), and having an interior electrical connector (28) within said interior space ...". It clearly indicates the recessed pin sockets 28 are within said interior space as set forth in claim 44.

Regarding the New Function, the Applicants argue "the hand held data entry terminal 10 (of Kumar), in the normal closed condition, already provides optical scanning via the scanning head 14 ... how does the open condition enable connection to perform a new function?" The hand held data entry terminal 10 of Kumar has the scan head 14 as one of a plurality of functions as stated in col. 4, lines 36-65, and the scanning function of the scan head 14 is considered as a new function in addition to other functions.

Regarding the General-Use Dictionaries, the Applicants argue "the general-use dictionary provides abstract definitions in a vacuum which may or may not be appropriate in view of the claimed invention as understood by one of ordinary skill in the art", and "Applicants note that the definition chosen by the Examiner was "to make possible, practical, or easy". In the Office Action, the Examiner cut off the definition after "possible" .

Before "to make possible" was picked as a definition (it is appropriate to choose any one) of "enable" from the officially issued Merriam Webster dictionary, the Examiner has checked: the specification of the application, 14 "enable"s (including enabled) appear in the specification, no definition of "enable" is given; and the McGraw-Hill Dictionary of Scientific and Technical Terms and The IEEE Standard Dictionary of Electrical And Electronics Terms, none of them applicable. The first choice of a definition of a term of an application would be the definition given in the specification. Unfortunately, the definition of "enable" is not found in the specification. There should not have been wrong for using a definition of a non-technical term "enable" from an officially issued Merriam Webster dictionary for explaining purposes.

Regarding Arguendo, Only for the Purposes of Argument, the terms used in the claim 44 and Applicants' arguments, such as: "normal closed condition", "device housing", "interior space", and "interior electrical connector" have not been found in the specification of the application; and "closed condition", "open condition", and "new function" appear only in the Abstract; and both groups of terms are not shown in the drawings.